

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

SEP 16 1994

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

Employer Identification Number:

Key District Office:

Dear Applicant:

We have considered your application for recognition of exemption as an organization described in section 501(c)(3) of the Internal Revenue Code. Based on the information submitted, we have concluded that you do not qualify for exemption under that section.

Your purposes, as stated in your articles of incorporation, are to provide broad based social services to residents of the State of [REDACTED], including access to low cost medical care and legal services, and to promote education, art, culture, tourism, and communication concerning [REDACTED] heritage.

Your primary activity is providing insurance through contracted medical providers. You charge an annual fee of \$[REDACTED] for the first family member and \$[REDACTED] per additional family member for contracted medical insurance paid to the carrier [REDACTED]. You then receive a \$[REDACTED] rebate per family from the carrier once the policy is written. The health insurance will cover costs of any medical need incurred in the [REDACTED] territory. Your program works as a health maintenance organization and the medical needs will be covered only at [REDACTED] health center in the [REDACTED] territory.

You will also offer legal counseling for problems such as eviction and divorce. In addition you will prepare tours of [REDACTED] for low income families and youth to provide cultural and historical education. In addition, you will provide educational opportunities such as lessons for learning spanish as a second language. You also operate a [REDACTED] cultural Center which will show Hispanic artists as well as provide lessons to children and youth.

Your income is derived principally from medical insurance activities, and is used for operating expenses. You have stated in your articles of incorporation that you have no members, however, in your contract for health insurance you refer to yourself as the "union" and refer numerous times to your "members."

Section 501(c)(3) of the Internal Revenue Code exempts from federal income tax organizations organized and operated exclusively for charitable, educational, and other purposes, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized and operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that an organization is not organized and operated exclusively for one or more of the exempt purposes specified in section 501(c)(3) of the Code unless it serves a public rather than a private interest.

Section 1.501(c)(3)-1(e)(1) of the regulations provides that an organization may meet the requirements of section 501(c)(3) of the Code although it operates a trade or business as a substantial part of its activities, if the operation of the trade or business is in furtherance of the organization's exempt purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513.

Section 513(a) of the Code defines the term "unrelated trade or business," as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purposes or function forming the basis for its exemption under section 501.

The Supreme Court of the United States, in Better Business Bureau v. United States, 326 U.S. 279 (1945), held that if the nonexempt activities of the organization are more than incidental or insubstantial, the organization is not entitled to exemption

under section 501(c)(3) of the Code regardless of the number or importance of its exempt purposes.

Rev. Rul. 75-199, 1975-1 C.B. 160 states that a nonprofit organization that restricts its membership to individuals of good moral character and health belonging to a particular ethnic group residing in a stated geographical area and provides sick benefits to members and death benefits to their beneficiaries is not exempt under section 501(c)(4) of the Code for tax years beginning after June 2, 1975.

Although some of your activities may be appropriate for an organization described in section 501(c)(3) of the Code, several of your objectives and several of your activities are similar to a commercial insurance company and certain other activities are similar to those of a labor organization. Your insurance activities are not substantially related to any exempt purpose and, therefore, constitute an unrelated trade or business within the meaning of section 513(a) of the Code. Since you are primarily engaged in the conduct of an unrelated trade or business, section 1.501(c)(3)-1(e)(1) of the regulations provides that you may not be recognized as exempt under section 501(c)(3) of the Code. See, Better Business Bureaus v. United States, supra.

Additionally, you have not demonstrated that your activities will not serve the private interests of your members more than incidentally. A membership organization of the type here described is essentially a mutual, self-interest type of organization. Its income is used to provide direct economic benefits to members and any benefit to the larger community is minor and incidental. Where the benefit from an organization is limited to that organization's members (except for some minor and incidental benefit to the community as a whole), the organization is not operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Code. See Rev. Rul. 75-199 supra for a similar analogy.

Based on the foregoing, we hold that you do not qualify for exemption from federal income tax as an organization described in section 501(c)(3) of the Code. Therefore, contributions to you are not deductible under section 170 of the Code. You are required to file federal income tax returns on Form 1120.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days from today and must be signed by one of your principal officers. When sending a protest or other

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correspondence with respect to this case, you will expedite its receipt by placing the following symbols on the envelope:

[REDACTED]. These symbols do not refer to your case, but rather to its location.

You also have the right to a conference in this office after your protest statement is submitted. If you desire a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that, a declaratory judgment or decree under this section shall not be issued in any proceedings unless the United States Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to the District Director, Baltimore, Maryland, which is your key district for exempt organization matters. Thereafter, any questions about your federal income tax status should be addressed to your District Director. The appropriate State Officials will be notified of this action in accordance with section 6104(c) of the Code.

Sincerely yours,

[REDACTED]
[REDACTED]
Chief, Exempt Organizations
Rulings Branch 4

cc: DD, Los Angeles
Attn: EO Group

cc: state officials

[REDACTED]
11-29-94